

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DAISY MAE MOBLEY (wife)
as administratrix of the ESTATE
of CLARENCE MOBLEY, JR., deceased
and as representative of her husband,
CLARENCE MOBLEY, JR. individually
and on behalf of AYANNA T. CASTRO
(Daughter of Deceased) and Darian Mobley
(Son of Deceased)

CIVIL ACTION NO. 09-CV-7757(LAK)
SECOND AMENDED COMPLAINT

PLAINTIFF DEMANDS
TRIAL BY JURY

Plaintiffs.

THE CITY OF NEW YORK (CITY); THE NEW YORK
CITY DEPARTMENT OF CORRECTION (NYCDOC);
individually and in their official capacity as
NEW YORK CITY CORRECTION OFFICERS:
CORRECTION OFFICER SHANE HUTCHINSON, Shield # 17243, New
York City Department of Correction, Anna M. Kross Center,
18-18 Hazen Street, East Elmhurst, New York 11370;
CORRECTION OFFICER TIMOTHY OWENS, Shield # 17378;
New York City Department of Correction, Anna
M. Kross Center, 18-18 Hazen Street, East Elmhurst,
New York, 11370; CORRECTION OFFICER, CHAD ELLIS, Shield # 6386,
Anna M. Kross Center, New York City, 11370;
CORRECTION OFFICER MICHAEL CRIVERA Shield # 18755,
New York City Department of Correction, Anna M. Kross
Center, 18-18 Hazen Street, East Elmhurst, New York, 11370;
CORRECTION OFFICER GEORGE LOCICERO, Shield # 18441, New York
City Department of Correction, Anna M. Kross Center, 18-18
Hazen Street, East Elmhurst, New York 11370; CORRECTION
OFFICER DANIEL COWANS, Shield # 15912, New York City
Department of Correction, Anna M. Kross Center, 18-18
Hazen Street, East Elmhurst, New York, 11370; CAPTAIN
MICHAEL MITCHELL, Shield # 700, New York City Department
Of Correction, Anna M. Kross Center, 18-18 Hazen Street
East Elmhurst, New York, 11370; ASSISTANT DEPUTY
WARDEN, RALEEM MOSES, Shield # 119, New York City Department
Of Correction, Anna M. Kross Center, 18-18 Hazen Street
East Elmhurst, New York, 11370

Defendants.

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CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT

Plaintiffs DAISY MAE MOBLEY, AYANNA T. CASTRO and DARIAN MOBLEY by and through their attorney Rudy Velez, Esq., state as follows:

INTRODUCTION

1. This is an action to recover money damages arising from the excessive use of force and negligence by New York City Correction Officers which resulted in the wrongful death of CLARENCE MOBLEY, JR., an inmate at Riker's Island Correctional Facility.

Cause of Death: Blunt Trauma of abdomen with laceration of liver and Hemoperitoneum.

Manner of Death: Homicide (physical restraint following altercation. See attached copy of Autopsy Report.)

2. That jurisdiction is founded upon the existence of a federal question.

JURISDICTION AND VENUE

3. This action is brought pursuant to 42U.S.C. § 1981, 1983 and the, Fourth, Fifth, Eight, an Fourteenth Amendments to the United States Constitution, and the laws of the State of New York.

4. Jurisdiction is founded upon 28 U.S.C. 1331, §1343 (1-4), and 2202.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 (b).

6. Plaintiff further invokes the supplemental jurisdiction of this Court to adjudicate pendant state law claims pursuant to 28 U.S.C. § 1367.

PARTIES

7. Plaintiff DAISY MAE MOBLEY (Mrs. Mobley) is a citizen of the State of South Carolina where she (Ms. Mobley) is domiciled. She is the wife of the decedent, CLARENCE MOBLEY, JR., who at the time of his death was a resident of New York but a Citizen of the State of South Carolina, that is, his fixed abode was his wife's house in South Carolina, where he intended to return and live permanently upon his release from Riker's Island. MS. MOBLEY was appointed administratrix of the estate of her husband, CLARENCE MOBLEY, JR., on November 13, 2009 by the Surrogate's Court of Bronx County (see attached letter.) Ayanna T. Castro is the daughter of the deceased, CLARENCE MOBLEY, JR., and Darian Mobley is the son of the deceased.

8. Defendant CITY OF NEW YORK (CITY) is a municipal corporation organized under the laws of the State of New York and the public employer of the New York City Correction officers named as defendants in this action, maintaining its principal place of business in the State of New York.

9. Defendant, New City Department of Correction (NYCDOC), is an agency of the City of New York, existing and operating by virtue of the laws of the State of New York and the City of New York, maintaining its principal place of business in the state of New York.

10. At all times relevant herein, defendant CORRECTION OFFICER, SHANE HUTCHINSON, Shield # 17243, was and still is a Correction Officer of the New York City Department of Correction assigned to the Anna M. Kross Center, 18-18 Hazen Street, East Elmhurst, New York., 11370; acting as agents, servants, and employees of Defendant City of New York.

11. At all times relevant herein, defendant CORRECTION OFFICER, TIMOTHY OWENS, Shield # 17378, was and still is a Correction Officer of the New York City Department of Correction assigned to the Anna M. Kross Center, 18-18 Hazen Street, East Elmhurst, New York., 11370; acting as agents, servants, and employees of Defendant City of New York.

12. At all times relevant herein, defendant CORRECTION OFFICER, CHAD ELLIS, Shield # 6386, was and still is a Correction Officer of the New York City Department of Correction assigned to the Anna M. Kross Center, 18-18 Hazen Street, East Elmhurst, New York., 11370; acting as agents, servants, and employees of Defendant City of New York.

13. At all times relevant herein, defendant CORRECTION OFFICER, MICHAEL CRIVERA, Shield # 18755, was and still is a Correction Officer of the New York City Department of Correction assigned to the Anna M. Kross Center, 18-18 Hazen Street, East Elmhurst, New York., 11370; acting as agents, servants, and employees of Defendant City of New York.